

AMENDED IN SENATE APRIL 20, 2010

SENATE BILL

No. 1345

Introduced by Senator Calderon

February 19, 2010

An act to amend and repeal Section 653o of the Penal Code, relating to prohibited importation of dead animal parts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1345, as amended, Calderon. Prohibited importation of dead animal parts.

Existing law, subject to exceptions, makes it an offense to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of specified animals, *including kangaroos*. Existing law, *until January 1, 2011*, provides an exception to these provisions for kangaroos that may be harvested lawfully under Australian national and state law, the federal Endangered Species Act, and applicable international conventions, as specified, with the operation of the exception being contingent upon the Department of Fish and Game being annually informed by the Australian government of specified information pertaining to the commercial harvesting of kangaroos in Australia, as specified. ~~Existing law provides that all of these provisions will be repealed on January 1, 2011.~~

~~This bill would remove the contingency from the provisions establishing the exception to the prohibitory provisions of the statute require the annual information provided by the Australian government to the Department of Fish and Game to be in writing for this kangaroo exception to apply. The bill would also extend the operation repeal date of these provisions indefinitely the exception to January 1, 2016.~~

By extending indefinitely the operation of this offense, this bill would impose a state-mandated local program.

~~Existing law, to be operative January 1, 2011, and subject to exceptions, makes it an offense to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of specified animals, including kangaroos.~~

~~This bill would repeal those provisions.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 653o of the Penal Code, as amended by
2 Section 1 of Chapter 15 of the Statutes of 2009, is amended to
3 read:

4 653o. (a) It is unlawful to import into this state for commercial
5 purposes, to possess with intent to sell, or to sell within the state,
6 the dead body, or any part or product thereof, of any polar bear,
7 leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf (*Canis*
8 *lupus*), zebra, whale, cobra, python, sea turtle, colobus monkey,
9 kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or
10 porpoise (*Delphinidae*), Spanish lynx, or elephant.

11 (b) (1) Commencing January 1, 2015, it shall be unlawful to
12 import into this state for commercial purposes, to possess with
13 intent to sell, or to sell within the state, the dead body, or any part
14 or product thereof, of any crocodile or alligator.

15 (2) This subdivision shall not be construed to authorize the
16 importation or sale of any alligator or crocodilian species, or any
17 products thereof, that are listed as endangered under the federal
18 Endangered Species Act, or to allow the importation or sale of any
19 alligator or crocodilian species, or any products thereof, in violation
20 of any federal law or any international treaty to which the United
21 States is a party.

(c) (1) This section shall not apply to kangaroos that may be harvested lawfully under Australian national and state law, the federal Endangered Species Act of 1971 (16 U.S.C. Sec. 1531 et seq.), and applicable international conventions, provided that the Department of Fish and Game is annually informed *in writing* by the Australian government that the commercial harvest of kangaroos in any future year will not exceed the official quota established for 2007 or the lawful take of kangaroos in each subsequent year, whichever is the lesser.

(2) If the department fails to receive the report described in paragraph (1), the department shall inform the Australian national government that future importation of kangaroos that otherwise may be harvested lawfully under Australian national and state law, the federal Endangered Species Act of 1971 (16 U.S.C. Sec. 1531 et seq.), and applicable international conventions shall be halted and their importation into this state for commercial purposes, possession with intent to sell, or sale within the state will be subject to the provisions of this section.

(d) Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail not to exceed six months, or both *that* fine and imprisonment, for each violation.

(e) The prohibitions against importation for commercial purposes, possession with intent to sell, and sale of the species listed in this section are severable. A finding of the invalidity of any one or more prohibitions shall not affect the validity of any remaining prohibitions.

(f) This section shall remain in effect only until January 1, ~~2011~~ 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2011~~ 2016, deletes or extends that date.

SEC. 2. Section 653o of the Penal Code, as amended by Section 2 of Chapter 15 of the Statutes of 2009, is amended to read:

653o. (a) It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf (*Canis lupus*), zebra, whale, cobra, python, sea turtle, colobus monkey,

1 kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or
2 porpoise (Delphinidae), Spanish lynx, or elephant.

3 (b) (1) Commencing January 1, 2015, it shall be unlawful to
4 import into this state for commercial purposes, to possess with
5 intent to sell, or to sell within the state, the dead body, or any part
6 or product thereof, of any crocodile or alligator.

7 (2) This subdivision shall not be construed to authorize the
8 importation or sale of any alligator or crocodilian species, or any
9 products thereof, that are listed as endangered under the federal
10 Endangered Species Act, or to allow the importation or sale of any
11 alligator or crocodilian species, or any products thereof, in violation
12 of any federal law or any international treaty to which the United
13 States is a party.

14 (c) Any person who violates any provision of this section is
15 guilty of a misdemeanor and shall be subject to a fine of not less
16 than one thousand dollars (\$1,000) and not to exceed five thousand
17 dollars (\$5,000) or imprisonment in the county jail not to exceed
18 six months, or both the fine and imprisonment, for each violation.

19 (d) The prohibitions against importation for commercial
20 purposes, possession with intent to sell, and sale of the species
21 listed in this section are severable. A finding of the invalidity of
22 any one or more prohibitions shall not affect the validity of any
23 remaining prohibitions.

24 (e) This section shall become operative on January 1, 2014
25 2016.

26 ~~SECTION 1. Section 653o of the Penal Code, as amended by~~
27 ~~Section 1 of Chapter 15 of the Statutes of 2009, is amended to~~
28 ~~read:~~

29 ~~653o. (a) It is unlawful to import into this state for commercial~~
30 ~~purposes, to possess with intent to sell, or to sell within the state,~~
31 ~~the dead body, or any part or product thereof, of any polar bear,~~
32 ~~leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf (Canis~~
33 ~~lupus), zebra, whale, cobra, python, sea turtle, colobus monkey,~~
34 ~~kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or~~
35 ~~porpoise (Delphinidae), Spanish lynx, or elephant.~~

36 ~~(b) (1) Commencing January 1, 2015, it shall be unlawful to~~
37 ~~import into this state for commercial purposes, to possess with~~
38 ~~intent to sell, or to sell within the state, the dead body, or any part~~
39 ~~or product thereof, of any crocodile or alligator.~~

~~(2) This subdivision shall not be construed to authorize the importation or sale of any alligator or crocodilian species, or any products thereof, that are listed as endangered under the federal Endangered Species Act, or to allow the importation or sale of any alligator or crocodilian species, or any products thereof, in violation of any federal law or any international treaty to which the United States is a party.~~

~~(c) This section shall not apply to kangaroos that may be harvested lawfully under Australian national and state law, the federal Endangered Species Act of 1971 (16 U.S.C. Sec. 1531 et seq.), and applicable international conventions.~~

~~(d) Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail not to exceed six months, or both fine and imprisonment, for each violation.~~

~~(e) The prohibitions against importation for commercial purposes, possession with intent to sell, and sale of the species listed in this section are severable. A finding of the invalidity of any one or more prohibitions shall not affect the validity of any remaining prohibitions.~~

~~SEC. 2. Section 6536 of the Penal Code, as amended by Section 2 of Chapter 15 of the Statutes of 2009, is repealed.~~

~~SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~